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# In the Supreme Court of the United States

October Term, 1946.

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JACK GORUM and NATIONAL MUTUAL CASUALTY COMPANY,  
*Petitioners,*

vs.

RUBY O. LOUDENSLAGER and CHARLOTTE LOUDENSLAGER,  
*Respondents.*

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RESPONDENTS' BRIEF IN OPPOSITION TO PETI-  
TION FOR WRIT OF CERTIORARI TO THE  
SUPREME COURT OF MISSOURI.

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# REPORT

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1. The first part of the report is devoted to a general survey of the situation in the country.
2. The second part is devoted to a detailed study of the various branches of the economy.
3. The third part is devoted to a study of the social and political conditions.

## CONCLUSIONS

The first conclusion is that the country is in a state of economic depression. The second conclusion is that the main cause of this depression is the overvalued exchange rate. The third conclusion is that the government should take measures to correct this overvaluation. The fourth conclusion is that the government should also take measures to improve the social and political conditions. The fifth conclusion is that the government should also take measures to improve the education of the people. The sixth conclusion is that the government should also take measures to improve the health of the people. The seventh conclusion is that the government should also take measures to improve the housing of the people. The eighth conclusion is that the government should also take measures to improve the transportation of the people. The ninth conclusion is that the government should also take measures to improve the communication of the people. The tenth conclusion is that the government should also take measures to improve the culture of the people.

# **In the Supreme Court of the United States**

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**JACK GORUM and NATIONAL MUTUAL CASUALTY COMPANY,**  
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## **RESPONDENTS' BRIEF IN OPPOSITION TO PETI- TION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF MISSOURI.**

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**No. 575.**

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### **RESPONDENTS' STATEMENT OF THE CASE.**

Petitioners' statement fails to fairly inform the Court:

(1) The Arkansas award dealt with an arrangement entered into between petitioner Gorum and the deceased Loudenslager in Bentonville, Arkansas, about February 1, 1940,

(2) The Missouri award was bottomed on a later arrangement between them entered into at Carthage, Missouri, in April, 1941, some months after the Arkansas arrangement had terminated,

(3) Respondents dismissed their claim before the Arkansas Workmen's Compensation Commission before submission about six weeks before its award was handed down.

We point to the record:

On July 23, 1941, Mrs. Loudenslager, in behalf of herself and child, Charlotte Loudenslager, the respondents here, as dependents of R. Guy Loudenslager, commenced proceedings before the Arkansas Workmen's Compensation Commission for his death from the accident of June 18, 1941 (R. 297). Petitioner Gorum filed a response to their claim asserting that it was controverted because Loudenslager was not in the employ of and was not engaged in any business for Gorum at the time of his injury (R. 299). Hearing of the claim began at Bentonville, Arkansas, December 15th and continued until December 17th, 1941.

During the course of the hearing it developed that Mr. Loudenslager, the deceased, originally entered the service of Mr. Gorum early in 1940 and continued until about January 18, 1941, when, because of some misunderstanding, Mr. Loudenslager withdrew one of his trucks from Mr. Gorum's service and quit (R. 24). It also developed that several months later Mr. Gorum re-employed Mr. Loudenslager at his home at Carthage, Missouri (R. 25), and that his re-employment continued until the fatal accident. Respondents requested that the hearing be continued, and the proceedings were adjourned to January 12, 1942 (R. 26). The testimony showed that Chairman Peel of the Arkansas Workmen's Compensation Commission demanded that Mrs. Loudenslager deposit a bond of \$1,000 with the Commission, stating he was requiring this because she was a non-resident of Arkansas, and he expressly ordered and stated at the time that in the event

of her failure to "deposit such a bond before the conclusion of the entire, of the hearing of the entire proceedings before him, the claims would be dismissed. A little later, after some discussion in which Mrs. Loudenslager's financial condition was laid before him, he then stated he would reduce the cash bond he had requested of her to \$750, and we told him it was impossible for her to put up any sort of cash bond, and he stated that unless that was done he would dismiss this claim, and that this money had to be up on January 3, 1942, a date before the date to which the Arkansas hearing had been adjourned to" (R. 27).

December 19, 1941, respondents filed their claim for compensation under the Missouri Workmen's Compensation Act with the Missouri Compensation Commission (R. 2-6).

January 3, 1942, while the claim was still pending and undisposed of before the Arkansas Commission, Mrs. Loudenslager for herself and as guardian of Charlotte Loudenslager, mailed to the Arkansas Commission an outright dismissal of the proceedings before it without prejudice (R. 301-302) which, omitting signature, is as follows:

"Before Arkansas Workmen's Compensation Commission.

Employee, Guy Loudenslager

Employer, Arkansas Traveler Truck Lines

Insurer, National Mutual Casualty Company.

Comes now Ruby O. Loudenslager, individually as widow, and as guardian of Charlotte Loudenslager, minor dependent of deceased employee, Guy Loudenslager, by her attorneys, and dismisses the above captioned claim for compensation and death benefits, without prejudice."

January 12, 1942, petitioner Gorum filed in said proceeding an "amended response" alleging that the Arkansas Commission had assumed jurisdiction of the controversy, that a hearing before it had been held at Bentonville, December 15, 16 and 17, 1941, which was not completed and had been continued until January 12, 1942, to afford claimants opportunity to submit further evidence, that on December 19, 1941, claimants had filed with the Missouri Workmen's Compensation Commission a claim involving the same controversy, that Gorum had been notified to plead before the Missouri Commission in response thereto, and that he will be compelled to do so at great inconvenience and cost unless the Arkansas Commission retains jurisdiction and determines the controversy, so as to avoid a multiplicity of suits (R. 303, 306).

January 24, 1942, in said Arkansas proceeding an order was entered by Mr. Peel, commissioner, reciting that, on that date "claimants' motion to dismiss" and petitioners' objections thereto and his prayer for final disposition of said claim, came on for determination, and that "upon consideration of the briefs filed by claimants and the argument of counsel for respondent claimants' motion to dismiss is denied because (1) claimants have made no tender of the accrued costs and (2) that it is the commission's duty to ascertain the rights of the parties." (R. 302).

February 6, 1942, respondents' counsel sent a telegram (Exhibit "E," R. 31-32a) to Mr. Peel, Chairman of the Workmen's Compensation Commission, Bentonville, Arkansas, protesting and objecting to any further exercise of authority or jurisdiction by the Arkansas Commission in the matter, and on the same day, by registered letter (Exhibits "F," "G"; R. 33-36), sent a formal pro-



test to any exercise of jurisdiction in the matter by the Arkansas Commission.

### **The Arkansas Award.**

Notwithstanding the dismissal of the claim before it before submission and the protests of Mrs. Loudenslager and her daughter, the Arkansas Workmen's Compensation Commission nevertheless continued to exercise jurisdiction, and on February 16, 1942, Mr. Peel entered an order in said Arkansas proceeding reciting that the parties are bound by the provisions of the Arkansas workmen's compensation law, that the employer, Jack Gorum, had secured payment of compensation benefits through a policy of insurance issued by National Mutual Casualty Company, that the relationship between Loudenslager and Gorum, d/b/a Arkansas Traveler Truck Lines, was established February 1, 1940, in Bentonville, and was that of independent contractor and contractee, that Loudenslager suffered an accidental injury June 18, 1941, resulting in his death the following day, and that as he was not an employee of Gorum, but an independent contractor, the claim of his widow and minor child should be and is denied and their claim dismissed (Ex. 1, R. 290-296).

The Arkansas Commission specifically found (R. 294-295):

"That Guy Loudenslager entered into an arrangement with Jack Gorum d/b/a the Arkansas Traveler Truck Line in Bentonville, Benton County, Arkansas, the principal and only place of business and residence of Jack Gorum, on or about February 1, 1940, and that the relationship between Guy Loudenslager and Jack Gorum d/b/a the Arkansas Travelers Truck Line at the time of the accidental injury and death

of Guy Loudenslager was that of independent contractor and contractee."

It also made this conclusion of law (R. 295):

"It is not disputed that the contractual relationship between the deceased, Guy Loudenslager, and Jack Gorum d/b/a the Arkansas Traveler Truck Line was entered into in Bentonville, Benton County, Arkansas, on or about February, 1940."

#### **The Missouri Award.**

In his several answers (R. 7-10) to the claims before the Missouri Workmen's Compensation Commission, petitioner Gorum did not deny that his operations were under the Missouri Act or that he was a major employer under the Missouri Act. The insurer, the petitioner National Mutual Casualty Company, in its separate answer before that Commission (R. 10-11) denied that it was the insurer and alleged that it had no compensation coverage on the operations of Mr. Gorum in the State of Missouri.

The insurer's binder (R. 207-208) was read in evidence at the hearing before the Missouri Commission. It is: "Dear Mr. Gorum: The National Mutual Casualty Company is hereby bound and agrees to pay any loss created or occurring to the Arkansas Traveler Truck Line, of Bentonville, Arkansas, from April 16, 1941, to June 25, 1941. This binder covers the Arkansas Traveler Truck Line the same as if their Workmen's Compensation Policy had been issued."

Mrs. Loudenslager, at the hearing of the claim before the Missouri Workmen's Compensation Commission, testified that Mr. Loudenslager first started to work driving a truck for Mr. Gorum in the early part of 1940, this period of his employment ending in January, 1941, when

Mr. Loudenslager quit Mr. Gorum's services because he was not getting "back hauls" and because "Mr. Gorum gave him checks that were continually bouncing back" (R. 131); that a number of times after Mr. Loudenslager quit Mr. Gorum, Mr. Gorum came to their home in Carthage, Missouri, and she heard their conversations (R. 132) where it was agreed between her husband and Mr. Gorum that he was to go back to work for him; that was about the middle of April, 1941 (R. 133). This and other testimony fully supported the finding of the Missouri Workmen's Compensation Commission that Mr. Loudenslager was employed by Mr. Gorum under a contract of employment made in the State of Missouri (R. 233).

#### Opinion of the Supreme Court of Missouri.

The Supreme Court of Missouri held that the Arkansas award was not *res adjudicata* of the issues before the Missouri Commission because:

(1) Two separate contracts of employment were involved, the Arkansas ruling being based on a contract of employment entered into between the deceased Loudenslager and petitioner Gorum in that state, while the Missouri award was based on a later arrangement between them made in Missouri.

(2) The finding by the Arkansas Commission that claimants had no remedy under the Arkansas Act did not mean they had no remedy under the Missouri Act.

(3) The State of Missouri had sufficient interest to justify the enforcement of its own Compensation Act in this case.

## SUMMARY OF THE ARGUMENT.

### I.

Neither the Workmen's Compensation Commission of Missouri nor the courts of that state were bound by the finding of the Arkansas Workmen's Compensation Commission that the relationship between deceased and Mr. Gorum was that of independent contractor and contractee because two separate claims were involved.

*Cromwell v. County of Sac*, 94 U. S. 351, 353, 24 L. Ed. 195.

*Mercoid Corp. v. Mid-Continent Inv. Co.*, 320 U. S. 661, 64 S. Ct. 268, 274, 88 L. Ed. 376.

### II.

Under the public policy of Missouri its Workmen's Compensation Commission alone has the power to find facts on which an award under the Missouri Act is to be based, and Missouri had sufficient interest to justify the enforcement of its own act in this case.

*Kemper v. Gluck*, 327 Mo. 733, 39 S. W. (2d) 330, certiorari denied *Gluck v. Kemper*, 284 U. S. 649, 52 S. Ct. 29.

*Sayles v. Steel Co. (banc)*, 128 S. W. (2d) 1040.

*Williams v. The State of North Carolina*, 325 U. S. 226, 65 S. Ct. 1092.

*Yellow Cab Transit Co. v. Overcash* (8th Cir.), 133 Fed. (2d) 228, 232.

## III.

The finding of the Arkansas Commission that deceased was an independent contractor was not binding on the Missouri Workmen's Compensation Commission.

*Cromwell v. County of Sac*, 94 U. S. 351, 353, 24 L. Ed. 195.

*Mercoid Corp. v. Mid-Continent Inv. Co.*, 320 U. S. 661, 64 S. Ct. 268, 88 L. Ed. 376.

*Kemper v. Gluck*, 327 Mo. 733, 39 S. W. (2d) 330, certiorari denied *Gluck v. Kemper*, 284 U. S. 649, 52 S. Ct. 29.

*Sayles v. Steel Co. (banc)*, 128 S. W. (2d) 1040.

*Williams v. The State of North Carolina*, 325 U. S. 226, 65 S. Ct. 1092.

*Yellow Cab Transit Co. v. Overcash* (8th Cir.), 133 Fed. (2d) 228, 232.

## IV.

The rule laid down in *Magnolia Petroleum Co. v. Hunt* did not bar a finding in favor of respondents by the Missouri courts after the Arkansas Workmen's Compensation Commission had denied compensation. Due consideration must be given to the fact that respondents dismissed their claims for compensation made before the Arkansas Workmen's Compensation Commission before submission thereof, and justice demands that the award granted in Missouri be permitted to stand.

*Cromwell v. County of Sac*, 94 U. S. 351, 353, 24 L. Ed. 195.

*Magnolia Petroleum Co. v. Hunt*, 320 U. S. 430, 64 S. Ct. 208.

*Jones v. Securities and Exchange Comm.*, 298 U. S. 1, 18, 56 S. Ct. 654, 80 L. Ed. 1015.

## ARGUMENT.

## I.

Under point I of their argument, petitioners contend that since the Arkansas award was first prosecuted to a conclusion, it was the duty of the Missouri Workmen's Compensation Commission to accept the finding there made, that deceased Loudenslager was an independent contractor as to petitioner Gorum, as finally and conclusively settling the relationship between them, precluding any further investigation of that issue by the Missouri Commission and Courts. They assert that the Missouri Workmen's Compensation Commission as well as the Missouri courts violated Article IV, Section 1 of the Constitution of the United States and the Acts of Congress which implement it, 28 U. S. C. A., Sec. 688, by looking into that issue, and determining it for themselves. They cite a number of cases which announce the basic rule that a final, conclusive judgment of one state, when duly pleaded and proven in a subsequent action, between the same parties on the same cause of action brought in another state, must be given the same force and effect in the second action that it had in the state where rendered, under the principle of *res judicata*.

But was the Missouri award based on the same cause of action of which the Arkansas Commission retained jurisdiction despite the protests of these respondents? Were the same issues involved? We think not.

Claimants originally filed their claim in Arkansas, for benefits created in their favor by the statutes of Arkansas, and based on a contract of employment entered into between the deceased and Mr. Gorum, in Arkansas, about

February 1, 1940. This was the only contract, of employment or otherwise, with which the Arkansas Commission dealt, or on which its award denying compensation was based. The record brings this home. The Arkansas Commission, in its award, stated this conclusion of law: "It is not disputed that the contractual relationship between the deceased, Guy Loudenslager, and Jack Gorum d/b/a the Arkansas Traveler Truck Line was entered into in Bentonville, Benton County, Arkansas, on or about February, 1940" (R. 295).

As we have pointed out in our statement of the case, after hearing on the claim began before the Arkansas Commission, respondents' counsel first became aware of the fact that the arrangement made in Arkansas in February, 1940, between the deceased and Mr. Gorum had terminated in January, 1941 (R. 141), and that deceased was re-employed by Mr. Gorum under a contract of employment made in Carthage, Missouri, in April, 1941 (R. 133). Respondents then dismissed their Arkansas claim before its submission and filed claim with the Missouri Commission. This was for the express purpose of prosecuting another and different cause of action for the death of Mr. Loudenslager, a cause of action created by the statutes of Missouri.

The record shows two separate contracts of employment, made in separate states, at separate times. Moreover, it shows the earlier arrangement, made in Arkansas, had terminated months before deceased was re-employed in Missouri. Therefore, we urge, the cause of action before the Arkansas Commission and on which its award was based was not the same cause of action on which Missouri awarded compensation. The Compensation Act of Arkansas was a part of the contract there made; the Missouri Act in Missouri.

Under such circumstances the applicable rule is not laid down by those cases cited by petitioners under their point I. The applicable rule on this record is found in *Cromwell v. County of Sac*, 94 U. S. 351, 353, 24 L. Ed. 195, where this Court stated the law to be:

“But where the second action between the same parties is upon a different claim or demand, the judgment in the prior action operates as an estoppel only as to those matters in issue or points controverted, upon the determination of which the finding or verdict was rendered. In all cases, therefore, where it is sought to apply the estoppel of a judgment rendered upon one cause of action to matters arising in a suit upon a different cause of action, the inquiry must always be as to the point or question actually litigated and determined in the original action, not what might have been thus litigated and determined. Only upon such matters is the judgment conclusive in another action.”

This statement of the law was reaffirmed in the very recent case of *Mercoird Corp. v. Mid-Continent Inv. Co.*, 320 U. S. 661, 64 S. Ct. 268, 274, 88 L. Ed. 376.

Under the authority of these cases we respectfully submit that the point determined by the Arkansas Commission against the protests of these respondents, the relationship of the deceased to Mr. Gorum under a contract of employment made in Arkansas, and terminated, could have no binding or conclusive effect on the determination by the Missouri Workmen's Compensation Commission or the Missouri courts on the relationship of the deceased to Mr. Gorum under a later contract of re-employment made in Missouri. That issue was never before the Arkansas Commission and was not there ruled.



## II.

At page 29 of their brief, under their point I, petitioners suggest that "The recognition of the Arkansas award by the Missouri Workmen's Compensation Commission and the granting it full faith and credit would not violate or conflict with any policy of the State of Missouri."

We cannot agree with this statement, which petitioners do not support with authority.

The public policy of a state is expressed in its statutory enactments. The Workmen's Compensation Code of Missouri is a statutory enactment. By statute, original jurisdiction of all matters embraced therein, is vested in the Missouri Workmen's Compensation Commission, which alone is empowered to find facts. The courts of Missouri hold that the Compensation Code is exclusive and substitutional and cannot be rewritten by the courts. *Kemper v. Gluck*, 327 Mo. 733, 39 S. W. (2d) 330, certiorari denied *Gluck v. Kemper*, 284 U. S. 649, 52 S. Ct. 29; *Sayles v. Steel Co. (banc)*, 128 S. W. (2d) 1040.

The public policy of Missouri then is that its Workmen's Compensation Commission alone shall determine the facts on which any award under its Act is based.

Whether or not there was a second contract of employment, whether or not it was made in Missouri, and whether the parties were employer and employee or independent contractor and contractee, were all matters of fact—facts which only the Missouri Workmen's Compensation Commission was empowered to make for the State of Missouri by the public policy of Missouri. The relationship of deceased to Gorum under the Missouri contract of re-employment was a matter in which the state had an interest and it was free to determine such fact for itself. As the Supreme Court of Missouri said in the case at bar, "It seems clear, under the tests of the

Alaska Packers' case, and the Pacific Employers' case, that Missouri has sufficient interest to justify the enforcement of its own act in this case."

In *Yellow Cab Transit Co. v. Overcash* (8th Cir.), 133 Fed. (2d) 228, 232, the court said:

"The full faith and credit clause of the federal constitution does not require Missouri to give effect to the Kansas compensation statute in preference to its own, when doing so would run counter to the domestic policy of Missouri as evidenced by its compensation statute. *Pacific Employers Ins. Co. v. Industrial Accident Commission*, 306 U. S. 493, 59 S. Ct. 629, 83 L. Ed. 940; *Alaska Packers' Ass'n v. Industrial Accident Commission*, 294 U. S. 532, 55 S. Ct. 518, 79 Law. Ed. 1044; *Bradford Electric Light Co. v. Clapper*, 286 U. S. 145, 52 S. Ct. 571, 76 L. Ed. 1026, 82 A. L. R. 696. 'Nothing in the Constitution ensures unlimited extraterritorial recognition of all statutes or of any statute under all circumstances.' *Klaxon Co. v. Stentor Electric Mfg. Co.*, 313 U. S. 487, 61 S. Ct. 1020, 1022, 85 L. Ed. 1477."

*Williams v. The State of North Carolina*, 325 U. S. 226, 65 S. Ct. 1092.

Missouri, therefore, was entitled to find the facts for itself and it properly did so.

### III.

Under point II of their argument, petitioners contend that the finding of the Arkansas Commission that deceased was an independent contractor was binding on the Missouri Workmen's Compensation Commission, and this even though the proceeding in Missouri was on a different cause of action than the proceeding in Arkansas.

We believe this contention has been fully answered by us in our points I and II, *supra*.

#### IV.

We urged before the Supreme Court of Missouri that the Arkansas Workmen's Compensation Commission was without jurisdiction to enter any award because respondents had dismissed their claim there made. We showed by the transcript of proceedings before the Missouri Workmen's Compensation Commission that the Chairman of the Arkansas Workmen's Compensation Commission had required a \$1,000 bond of Mrs. Loudenslager to secure costs because she was a non-resident (R. 26); that he later reduced this to \$750; that he was told it was impossible for Mrs. Loudenslager to put up any sort of cash bond and that Mr. Peel then stated that unless the cash bond were posted he would dismiss the claim; that the cash bond had to be up on January 3, 1942 (R. 27). The transcript also shows that on January 3, 1942, Mrs. Loudenslager, for herself and as guardian of her daughter, before submission, mailed an outright dismissal of their Arkansas claim to the Arkansas Commission (R. 301-302); that on January 24, 1942, the Chairman of the Commission treated respondents' outright dismissal as a motion to dismiss and denied the dismissal because the claimant had not tendered the accrued costs and that it was the Commission's duty to ascertain the rights of the parties (R. 302). The transcript also shows that on February 6, 1942, telegrams and letters and formal protests were sent to the Arkansas Commission protesting the exercise of any jurisdiction by that Commission (Exhibit "E," R. 31-32a; Exhibits "F," "G," R. 33-36).

We urged before the Supreme Court of Missouri that there was no provision in the Compensation Code of the

State of Arkansas which prohibited the dismissal of claims or which necessitated or authorized security for costs; that no provision prevented dismissal because any accrued costs had not been paid. We urged that in his original answer (R. 299) and which was on file at the time of the dismissal, petitioner Gorum asserted that he was controverting the claim because Loudenslager was not in the employ of and was not engaged in any business for Gorum at the time of his injury, so that dismissal of the claim left the parties in accord on the proposition that no compensation was due under the Arkansas Act. We urged that with the claim dismissed as it was by the respondents, the Arkansas Commission was divested of all jurisdiction in the matter because there was nothing for it to determine since the procedural machinery of the Arkansas Code can be brought into action only by the filing of a claim, and we urged that corollary to Mrs. Loudenslager's right to file a claim was her right to dismissal before final adjudication. *Jones v. Securities and Ex. Com.*, 298 U. S. 1, 18, 56 S. Ct. 654, 80 Law. Ed. 1015.

The Supreme Court of Missouri ruled that point against us. We believe it erred in so doing, but we do not urge that ground before this Court as grounds for granting the writ, but merely to emphasize how this case differs on the facts from *Magnolia v. Hunt*.

We have consistently maintained that respondents' Missouri claims arose out of a different transaction than that before the Arkansas Commission, the one arising out of a Missouri contract into which the Workmen's Compensation Code of Missouri is written by the laws of that state, the other arising out of a contract made in Arkansas with the compensation laws of Arkansas as a part thereof.

But even if we were wrong in this, we do not believe that respondents were precluded by the Arkansas award from prosecuting their claims in Missouri.

In a preceding section of this brief we have quoted from *Cromwell v. County of Sac*. We again quote from that same case, page 356:

"Various considerations, other than the actual merits, may govern a party in bringing forward grounds of recovery or defense in one action, which may not exist in another action upon a different demand, such as the smallness of the amount or the value of the property in controversy, the difficulty of obtaining the necessary evidence, the expense of the litigation, and his own situation at the time. A party acting upon considerations like these ought not to be precluded from contesting in a subsequent action other demands arising out of the same transaction."

The record shows that a hardship was being worked upon respondents by the Arkansas Commission, that they were ordered to give security for costs when the law of that state did not authorize such order, that they were refused a dismissal of their claims and that they did not desire or intend further to be parties to the Arkansas proceeding. Under these circumstances, does justice require that respondents be precluded from prosecuting their claims in the state where both they and the deceased lived, in the state where he was employed, in the state where a great part of his work was carried on, in the state where the employer was licensed and qualified to transact business? Positive injustice would result if respondents are bound by the Arkansas proceedings from which they sought to withdraw.

Petitioners rely chiefly on *Magnolia Petroleum Co. v. Hunt*. The opinion in that case, as we read it, stresses the fact that the rule there laid down is based on the premise that a prior recovery had been sought, prosecuted and recovered. At page 432 of the opinion the court said, "He

sought and procured in Texas an award of compensation for his injury under its Workmen's Compensation Law, and petitioner's insurer made payments of compensation as required by the statute and the award." At page 437 the court said, "But when the employee who has recovered compensation for his injury in one state seeks a second recovery in another he may be met by the plea that full faith and credit requires that his demand, which has become *res judicata* in one state, must be recognized as such in every other." At page 440, "Each state has awarded to respondent compensation for that injury." At page 444, "Respondent was free to pursue his remedy in either state but, having chosen to seek it in Texas, where the award was *res judicata*, the full faith and credit clause precludes him from again seeking a remedy in Louisiana upon the same grounds." But note that the court added, "The fact that a suitor has been denied a remedy in one state because it does not afford a remedy for the particular wrong alleged, may not bar recovery in another state which does provide a remedy. See *Troxell v. Delaware, L. & W. R. Co.*, 227 U. S. 434; cf. *Ash Sheep Co. v. United States*, 252 U. S. 159, 170."

### Conclusion.

We do not believe that any of the cases cited and relied upon by the petitioners rule the facts presented by this record or hold, on the facts present in this record, that the award of the Arkansas Commission was *res judicata* of respondents' rights under the laws of Missouri. We believe we have given this Court many sound reasons, supported by authority which we deem applicable, for holding, as did the Supreme Court of Missouri, that the Arkansas award was not *res judicata* of respondents' rights under

the laws of Missouri. We sincerely believe and urge that justice directs that petitioners' prayer for a writ of certiorari be denied.

Respectfully submitted,

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